

BILL NO. 9 -2008

AN ORDINANCE

AN ORDINANCE AMENDING THE CITY OF READING CODIFIED ORDINANCES CHAPTER 1 - ADMINISTRATION AND GOVERNMENT, SECTION H DEPARTMENT ORGANIZATION, EXHIBIT A - PURCHASING PROCEDURES, BY ADDING A NEW SECTION 8.0 ENTITLED PROTECTION OF INTEGRITY IN GOVERNMENT AND RENUMBERING ACCORDINGLY.

**WHEREAS**, large political contributions from those seeking or currently performing business with the City, raise reasonable concerns on the part of taxpayers and residents as to their trust in government contracts; and

**WHEREAS**, it has become common for individuals/entities to make substantial political contributions to persons holding elective City office who are ultimately responsible for awarding professional service contracts which are not subject to public bidding; and

**WHEREAS**, in the interest of good government, the City desires to set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a contract from the City; and

**WHEREAS**, the City governing body has determined that the flow of excess political contributions into the City of Reading from sources located outside the City of Reading could contribute to a corrupting influence on the political process in the City of Reading; and

**WHEREAS**, the governing body of the City of Reading desires to curb process known as wheeling by placing limits on the amounts of political contributions that a candidate for elective City office may receive;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Reading as follows:

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 11<sup>th</sup> day of July A. D. 20 08. Witness my hand and seal of the said City this 12<sup>th</sup> day of July A. D. 20 08.

CITY CLERK

### **Section 8.1. Definition of Terms**

The terms listed below shall have the following meanings for purposes of this ordinance:

Professional Business Entity – a “professional business entity” means an individual including the individual’s spouse, if any, and any child living at home; person; firm; corporation; Professional Corporation; partnership; organization; or association. The definition of a professional business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the professional business entity.

### **Section 8.2. Prohibition on Awarding Public Contracts to Certain Contributors**

- (a) To the extent that it is not inconsistent with State or Federal Law, the City of Reading or any of its purchasing agents, departments or instrumentalities of the City thereof, as the case may be, will not enter into any agreement or otherwise contract to procure professional, banking, insurance coverage service or any other consulting services provided by a licensed professional, including those awarded pursuant to any process including a fair and open process, if such professional business entity has solicited or made any contribution of money or pledge of a contribution, including in-kind contributions to (i) any campaign committee of any candidate for elective City office or to the current holders of any elective City office, or (ii) to any City of Reading party committee or (iii) to any municipal party committee within the City of Reading, or (iv) to any candidate committee, state, or county political party or any Political Action Committee (PAC) that is engaged in the financial or in kind support of candidates for elective City of Reading offices, City elections and/or City of Reading political parties in excess of the threshold specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.
- (b) No professional business entity who submits a proposal for; enters into negotiations for or agrees to any contract or agreement including those awarded by a “fair and open process” for the rendition of professional services as the case may be, shall knowingly solicit or make any contribution of money, pledge of contribution, including in kind contributions to: (i) any campaign committee of any candidate for elective City office or to the current holder of any elective City office or (ii) to any City of Reading party committee or (iii) to any municipal party committee within the City of Reading or (iv) to any candidate committee, state or county political party or Political Action Committee (PAC) that is engaged in the financial or in kind support of candidates for the City of Reading

elective City office, City elections and/or City of Reading political parties between the time of first communication between that professional business entity and the City regarding a specific professional services agreement and the latter of the termination of negotiation or rejection of any proposal or the completion of the contract or agreement.

- (c) Anyone meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$300 each or up to the amount of reportable contributions as may from time to time be established by State or Federal Law for any purpose to any candidate for elective City office or current office holder, or \$500 to any City of Reading party committee, or municipal party committee within the City of Reading, or to a single or joint campaign account of a candidate committee, state or county political party or PAC referenced in this ordinance without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all candidates for elective City offices and to officeholders with ultimate responsibility for the award of the contract, and all City and state political parties, municipal party committees within the City of Reading and PACs referenced in this ordinance combined, without violating subsection (a) of this section.
- (d) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
  - (1) The Council of the City of Reading, if the contract requires approval as provided for by the established purchasing policies of the City of Reading.

### **Section 8.3. Contributions Made Prior to the Effective Date**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any candidate for elective County office or to any county party committee, municipal party committee, state or City political party, candidate committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this ordinance. The disclosure requirements of this ordinance shall not apply to contracts awarded subsequent to the effective date if the Request for Proposal process was initiated prior to the effective date.

#### **Section 8.4. Contribution Statement by Professional Business Entity**

- (a) Prior to awarding any contract or agreement to procure services, including but not limited to banking, insurance service or other professional type services, the City or any of its purchasing agents or agencies shall receive a sworn statement from the professional business entity under penalty of perjury that the entity has not made a contribution in violation of section 8.2 of this ordinance. This statement shall be in addition to the disclosure requirements as required by applicable State and Federal law.

The professional business entity under penalty of perjury will make the statement that it has not knowingly made a contribution in violation of the ordinance hereof and has not made or solicited contributions through intermediaries, third parties, immediate relatives, or Political Action Committees for the purpose of concealing the source of the contribution. A professional business entity that files an incorrect Public Disclosure Statement will have its contract with the City of Reading declared null and void and will be disqualified from being awarded any contract for a period of four (4) years.

- (b) Ten days prior to awarding any contract or agreement to procure Professional Services with any professional business entity, including those awarded pursuant a "fair and open process", the City or its purchasing agent or agencies, as the case may be, shall receive a completed City of Reading Public Disclosure Statement form and provide that for public review at the City Clerk's office. The City of Reading Public Disclosure Statement shall list all of the political contributions by the professional business entity to any State, City or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, or holder of, an elective office of the City of Reading; or of another elective office within the City of Reading; or of a legislative district which includes all or part of the City of Reading; or any continuing political committee for a period of 12 months prior to the contract year being entered into, noting the candidate or campaign committee, the amount and date, and the nature of the contribution.
- (c) The professional business entity shall have a continuing duty to report any violations of this ordinance that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the City and shall be in addition to any other certifications that may be required by any other provision of law. At a minimum, completion of the Public Disclosure Statement will be an annual requirement of the professional business entity.

#### **Section 8.5. Return of Excess Contributions**

A professional business entity may cure a violation of Section 8.2 of this ordinance, if within 30 days after the date on which the applicable ELEC report is published, the professional business entity notifies the City Council in writing that they will be seeking and receiving reimbursement of a contribution from the relevant candidate for elective City office or the office holder, or candidate committee, state or City political party or PAC reference in this ordinance.

#### **Section 8.6. Exemption**

The contribution limits specified within this ordinance do not apply to contracts awarded pursuant to a public bid or competitive contract process pursuant to State law or to those contracts awarded as emergency contracts when the public exigency requires the immediate emergency services as determined by resolution of the City Council after finding those facts which support a conclusion of imminent danger to the health and welfare of the City of Reading citizenry.

#### **Section 8.7. Penalty**

- (a) It shall be a breach of the terms of the City professional services agreement for a professional business entity to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contribution through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of any elective City office; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance. The purpose and intent of the aforementioned prohibition is to prevent entities from circumventing the requirements of this ordinance by working or operating with or through third parties.
- (b) Furthermore, any professional business entity who violates Section 8.7(a)(ii-viii) shall be disqualified from eligibility for future City contracts for a period of four calendar years from the date of the violation.

- (c) Any professional business entity who violates section 8.7(a)(i) shall have its contract with the City of Reading declared null and void at the option of the governing body, unless the violation is cured as provided for in Section 8.5.

**Section 8.8. Prohibition Against Candidate Receipt of Certain Contributions**

- (a) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from a county committee of a political party, other than the county committee of the county in which the candidate or candidates reside, in excess of \$2,600 per election.
- (b) No candidate or candidate committee for any elective City office in the City of Reading shall accept any monetary or in-kind contribution in excess of \$2,600 per election, directly or indirectly, from a county political party committee if such county political party committee has received any contribution in excess of \$2,600 at any time during the preceding twelve months from a county political party committee, a municipal political party committee, a candidate committee, a continuing political committee, or a PAC organized under § 527 of the Internal Revenue Code, located outside of Berks County.
- (c) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from a state political party in excess of \$2,600 per election.
- (d) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from a legislative leadership committee in excess of \$2,600 per election.
- (e) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from a continuing political committee or PAC organized under § 527 of the Internal Revenue Code in excess of \$2,600 per election.
- (f) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from another candidate committee, other than from a candidate committee located in at least part of the City of Reading, in excess of \$2,600 per election.
- (g) No candidate or candidate committee for any elective City office in the City of Reading shall accept a contribution from a municipal political party committee, other than a municipal political party committee of a municipality located in the City of Reading, in excess of \$2,600 per election.

- (h) No candidate or candidate committee for any elective City office in the City of Reading shall accept any monetary or in-kind contribution, in excess of \$2,600 per election, directly or indirectly, from a municipal political party committee located in the City of Reading, if such municipal political party committee has received any contribution in excess of \$2,600 at any time during the preceding twelve months from a county political party committee, a municipal political party committee, a candidate committee, a continuing political committee, or a PAC organized under § 527 of the Internal Revenue Code, located outside of Berks County.
- (i) Any candidate or candidate committee for elective City office in the City of Reading who has taken contribution in excess of those outlined in Section 8.8(a)-(h) of this Ordinance shall be subject to a fine of up to \$500 per violation for a first offense and up to \$500 per violation and/or 30 days in the county jail for a subsequent offense. Enforcement of this ordinance shall be brought by a citizen complaint which may be filed in any court with jurisdiction over the alleged violator.

**Section 9.9. Incorporation by Reference**

- (a) The regulatory and penalty provisions of this Ordinance shall be incorporated by reference into all City of Reading contracts for professional services and extraordinary unspecifiable services.

**Section 10.9. Severability and Effectiveness Clause:**

- (a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.
- (b) Any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

**Section 11.9. Effective Date:**

This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or repassage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

Enacted

2008

President of Council

Attest:

City Clerk

(Councilor Fuhs)

Submitted to Mayor:

Date: 2-12-08

Received by the Mayor's Office: ms

Date: 2-12-08

Approved by Mayor: Ga

Date: 2/12/08

Vetoed by Mayor:

Date: